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HUMAN RIGHTS COMMITTEE
Fifty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

HAITI

1. In the light of past and continuing events in Haiti affecting the human rights guaranteed by the International Covenant on Civil and Political Rights, and in accordance with article 40, paragraph 1 (b), of the Covenant, the Committee requested the Government of Haiti, on 27 October 1994, to submit a special report, not later than 31 January 1995 and if necessary in summary form, describing, in particular, the implementation of articles 6, 7, 9, 10 and 14 of the Covenant during the current period, for consideration by the Committee at its fifty-third session.

2. In response to that request, the Government of Haiti submitted a report on 27 February 1995 (CCPR/C/105), which was considered by the Committee at its 1397th and 1398th meetings, on 27 March 1995 (see CCPR/C/SR.1397 and 1398). At its 1412th meeting, on 5 April 1995, the Committee adopted the following comments:

A. Introduction

3. The Committee welcomes the willingness of the Government of the State party to cooperate and to enter into a constructive dialogue with the Committee on the application of the Covenant in Haiti, as evidenced by the submission of the special report and the sending of a high-level delegation to present the report. The Committee notes that, while providing some information about constitutional and legal measures giving effect to articles 6, 7, 9, 10 and 14, the report lacked information on the practice concerning human rights and on the difficulties affecting the application of the Covenant in the country. The Committee, mindful of the difficulties facing all branches of government in

Haiti since the restoration of the legitimate Government, thanks the delegation for endeavouring to reply to the questions raised in the course of the dialogue and thus, to a certain extent, make up for the report's shortcomings.

B. Factors and difficulties affecting the application of the Covenant

4. The Committee notes that Haiti is only now emerging from a long and devastating military dictatorial past during which grave human rights violations occurred, including summary executions, torture and other inhuman or degrading treatment and arbitrary arrests and detentions. The country has only recently initiated a process of recovery and has just embarked on a course of transition to democracy. The Committee further notes that, despite efforts undertaken by the Government, political and social attitudes still prevalent in the country are not conducive to the promotion and protection of human rights. Violence and disorder continue to disrupt society and many weapons remain in the hands of members of former paramilitary groups and the public in general. The lack of a functioning judicial system, and deeply rooted social and economic problems, affect the application of the Covenant.

C. Positive aspects

5. The Committee welcomes the restoration of the legitimate Government of Haiti and the considerable efforts made by the present Government to ensure respect for human rights. In this connection the establishment by presidential decree of a National Commission on Truth and Justice with the task of carrying out investigations into human rights violations and ensuring justice for the victims of such violations is particularly appreciated. The Committee also notes the creation of a civilian police force separated from the armed forces as an important step. The Committee appreciates the fact that programmes for the training of judges and police officers are being initiated.

6. The Committee notes with satisfaction the adoption of a number of laws directly affecting the establishment and development of institutions and policies for the protection of human rights, such as the recent Act declaring all paramilitary groups illegal, the Territorial Communities Act, which eliminates the former autocratic system of section chiefs and provides for local authorities elected by the people, and the Electoral Act. The Committee also welcomes the beginning of the process which will lead to the holding of parliamentary elections in June 1995 and presidential elections in December 1995.

D. Principal subjects of concern

7. Given the general conditions prevailing at the present time in Haiti, the Committee has not detailed all its concerns relating to inconsistencies between provisions of the legislation, including the Constitution and laws, on the one hand, and the Covenant on the other hand.

8. The Committee expresses its concern about the effects of the Amnesty Act, agreed upon during the process which led to the return of the elected Government of Haiti. It is concerned that, despite the limitation of its scope to political crimes committed in connection with the coup d'état or during the past regime, the Amnesty Act might impede investigations into allegations of human rights violations, such as summary and extrajudicial executions, disappearances, torture and arbitrary arrests, rape and sexual assault, committed by the armed forces and agents of national security services. In that connection, the Committee wishes to point out that an amnesty in wide terms may promote an atmosphere of impunity for perpetrators of human rights violations and undermine efforts to re-establish respect for human rights in Haiti and to prevent a recurrence of the massive human rights violations experienced in the past.

9. The Committee emphasizes the importance of investigation of human rights violations, determination of individual responsibility and fair compensation for the victims, and regrets that the Commission on Truth and Justice has not yet initiated its work.

10. The Committee is concerned that failure to screen and exclude human rights violators from service in the military, the police force and the judiciary will seriously weaken the transition to security and democracy. The Committee is also concerned that human rights violations by members of the armed forces, agents of security services, and members of former paramilitary groups still occur. The Committee notes with particular concern the lack of full and effective control by civilian authorities over the military. The Committee is concerned that the composition, command and number of the armed forces is not clearly defined.

11. The Committee expresses its concern at the numerous problems affecting the proper functioning of the justice system, including long periods of pre-trial detention and overcrowding of prisons. It wishes to point out, in that regard, that, unless a serious effort is undertaken to reform the judiciary and re-establish a proper functioning of the judicial system, efforts to strengthen the rule of law and to promote respect for human rights will be seriously undermined.

12. The Committee is concerned about allegations of forced labour of minors in violation of article 8 of the Covenant.

E. Suggestions and recommendations

13. In view of the fact that the Amnesty Act was adopted before the reinstallation of the legitimate Government, the Committee urges the State party to apply that Act in conformity with the Covenant and to exclude from its scope the perpetrators of past human rights violations.

14. The Committee emphasizes the obligation of the State party under article 2, paragraph 3, of the Covenant to ensure that victims of past human rights violations have an effective remedy. It strongly recommends that the Commission on Truth and Justice initiate its work as soon as possible and that other mechanisms be set up to investigate human rights violations by members of the